basis of lines 4 - 17 of col 21. Nowhere does Lockwood suggest giving a customer entry into his database for search purposes. In Lockwood the customer must know what he is looking for and request it. The process is one of selection, not investigation. The customer can locate *a specific* product or service by defining his selections through the menu. If the customer is interested in lamps he begins with *a retail display* menu 234. The customer then selects *home furnishings* from the second frame, and from the third frame of home furnishings the customer selects *lamps.* This cannot be considered browsing. On page 23 of the application herein it is pointed out that an independent customer can establish contact with the central facility's equipment without the assistance of a representative, and merely help himself in a self-service mode to databases for the goods or services which interest him. Unlike the selection process of Lockwood the customer herein does not know what he will find. A rejection based on the passages in col 21, then, is unsound.

As another example, there are several aspects of this invention. The aspect claimed in Applicant's allowed application was a system offering multiple competing central communications facilities offering a greater number of competing goods and services in order to increase competition, along with data, graphics in the form of video, and audio relating to the competing goods and services. Three other aspects of the invention are the provision of systems for marketing goods and services which are adaptable for three types of individuals, passive, dependent, and independent, in other words those wishing nothing to do with computers, those interested in computers but having no computer knowledge, and those who use computers and want to be left alone. It is this third aspect which has been elected herein–a system for one who wants to operate the system himself. Lockwood must be considered in this light. In Lockwood

the customer activates the audio-visual presentations by dialing the keypad 276 requesting access to the system through the telephone network 280 to the data processing center 201. A voice response system 221 at the data processing center accepts the customer's inquiries and audibly answers questions from its voice synthesis storage. The customer's requests for audio-visual presentations are relayed from the voice response system to the central processor 222. That processor selects the appropriate data sources for transmission to the local cable television company 210 and routes them via the cable network 281 to the customer's terminal 202. The customer upon viewing the presentation, which includes a menu, selects from the displayed menu his next selection. This selection is then entered on the keypad and transmitted to the central data processing center for assembly of the requested informational segment to be routed to the sales and information terminal. This circuitous sequence continues until the customer decides to abort or to order a service or product. It is clear that Lockwood is not directed to any of the aspects of Applicant's invention. The solutions to the problem are so different the selection of passages of Lockwood as a basis for the rejection is without merit. This is particularly true in view of newly presented claim 20.

At this juncture it is also important to discuss the Internet in view of the recent media attention directed to so-called Internet patents. In actual fact the business phases of the Internet and the Netscape browser did not come into being until after Applicant's date of invention. For this reason Applicant's invention can be carried out without the Internet facilities. During the first few years Applicant's applications were prosecuted by the inventor, tending to delay matters, and leading to continuation applications. During these delays the Internet has come into being.

As computers were developing, the need to transfer information between them became apparent. From the beginning computer experts across the country began exploring ways to connect directly for educational purposes remote computers and their users. They wanted a means for exchanging research papers, experimentation and similar information. Early on, probably about 1969, the United States Government officials began to appreciate the impact computers would have on military research and development in addition to education. These Government officials began to realize that computers would have profound military functions, such as command and control, supply, and civil management. As a consequence the U.S. Advanced Research Projects Agency funded an experimental network known as the ARPANET. Since one of the goals of ARPANET, was research in computer systems for military purposes, it was realized that more than one route was needed between linked computers. ARPANET had to learn to provide networks which could stand loss of connections. This meant that many computers had to be able to communicate with each other. That requirement led to the system of protocols. Protocols are agreed upon methods of communication used by computers. The system that was developed was the TCP/IP (Transaction Control Protocol/Internet Protocol) network protocol. It was the language that computers on the network used to talk to one another. Subsequently all of the interconnected research networks of the ARPANET were converted to the TCP/IP protocol, and the "Internet", was officially born.

This, however, was not the Internet as we know it. Our Internet did not come into being until that Internet lifted its ban on doing business on the facility. Even then it was not until late in 1994 when a private corporation, Mosaic Communications Corp. released its first browser that business and the media discovered the Internet. And marketers still shied away from the Internet

until after December,1994. Based upon the dates of the parent applications herein, the relevant Internet date is at least two years after Applicant's date of invention.

Referring now specifically to the Office action and the rejection of claim 10 (now new claim 20) in view of Lockwood and Bankshares, it is agreed that a factitious loan officer helps a customer through a series of questions. This does not specifically differ from the original Lockwood, 4,359,631, in which he provided services by means of simulated interviews with a fictitious agent created by audio-visual devices. Lockwood's terminal was programmed to elicit information in a predetermined sequence from a customer, and to transmit that information to a central processing center. At the central terminal the information was processed to determine information to be forwarded to a customer.

Similarly, in the newly cited Lockwood a travel agent interviews the client to determine the general information required. the sales system and enters the prerequisites. Selected factors are then analyzed by an operating program to determine the type of loan. Once a type of loan has been selected, a fictitious loan officer asks a series of inquiries corresponding to the questions that would be found on a standard loan application form. Each remote terminal displays the live image of the fictitious loan officer who helps the applicant through the interactive series of questions and answers designed to solicit all of the information necessary to process a loan application.

The Lockwood system affords a customer no latitude. He cannot conduct his own investigation. Rather he is guided blindly through the series of questions and answers. The system now claimed in Applicant's new claim 20, along with other distinguishing features, provides this latitude. In Applicant's system the remote facility is there to satisfy the customer, not to satisfy the computer. The emphasis thus is quite different. In fact the Bankshares article,

in pointing out the advantages of a real person while noting reservations about such systems, supports applicant's objects directed to satisfying all types of customers.

As indicated, the preamble of new claim 20 acknowledges the use of central and remote facilities. For storing computerized graphics, video, and audio in a central facility lines 9 - 15 of col 18 are relied on. However the lines in col 18 do not specify how this is done. In actual fact the customer brings up displays of the audio-visual presentations by selecting various choices and entering those choices on a telephone keypad. This directs the computer to select from its data sources the requested information and to transmit it to the customer's CRT. The invention set forth in new claim 20 is uniquely different. And the use of telephone keypads and CRTs do not suggest or render obvious the use of computerized facilities as claimed.

For storing computerized graphics, video, and audio in a central facility lines 9 - 15 of col 18 are relied on. There it is disclosed that the customer activates the audio-visual presentations by dialing the keypad 276 requesting access to the system through the telephone network 280 to the data processing center 201. Since a voice response system 221 at the data processing center accepts the customer's inquiries and audibly answers questions from its voice synthesis storage it cannot be argued that these lines suggest downloading, which carries with it the right at the remote facility to save and print data later. Lockwood states that at a customer's request for audio-visual presentations are relayed from the voice response system to the central processor 222, *which selects the appropriate data sources* for transmission.

It is believed to be the law that a reference cannot be dissected as a step toward anticipation. It is suggested that the interpretation of lines disclosing forwarding information as downloading is tantamount to dissecting the reference. This is also true of lines 66 of col 13

forward. In these lines it is disclosed that communication with the customer is done mainly through the video screen 118. The video screen 118 displays the picture of the fictitious loan officer who informs the applicant about the various types of loans available as well as the manner in which the application can be filed. The loan applicant answers the requests of the loan officer by means of a touch pad 119 or a keyboard. To take the position that these lines suggest initiating a search in the central database would be unsound. This is evidenced by the Lockwood disclosure starting at line 9 in col 17 wherein it is pointed out that once a voice communication has been established between the telephone handset 275 and the data processing center, the tone generating keypad 276 is used to generate and send to the processor by way of the telephone network 280, coded instructions representing a request for information to be displayed on the television receivers 274. After viewing the requested information on his television set, the customer can use the telephone keypad 276 to order goods or services selected among those displayed on the television receiver. The displaying of images on a screen is acknowledged, but it is urged that the type of information displaying described in col 17 cannot be said to suggest searching as recited by Applicant on pages 22 and 23 in his specification. Ban

The Office action acknowledges that storing and transmitting audio, video and data, and transmitting audio, video and data are not disclosed in Lockwood. The basis for their rejection was the official notice doctrine. Official notice was utilized in asserting that these two limitations were well known at the time of Applicant's invention. In this connection, whereas it is alleged that the Lockwood reference has a priority date of at least August 29, 1991, it can be shown that in the early Lockwood patents, 4,567,359 and 5,309,355, the audio and video were stored at the *remote facility*. Hence there was no central storage and transmission of audio and video. In fact

the only audio and video in the first Lockwood patent was that pertaining to the fictitious agent. There was none directed to the products or services. In addition, the Manual of Patent Examining Procedure, Section 2144.03, in guiding examiners through official notice, calls attention to In re Ahert and Kruger, 165 USPQ 418. Citing In re Knapp Monarch Co., 132 USPQ 6, In re Ahert holds that the rule of judicial notice is not as broad as it first might appear. The court will always construe it narrowly. The role the facts so noticed play in the evidentiary scheme upon which a rejection of the claims is based is important. It is urged that this is the case herein.

With respect to the dependent claims attention is directed to the practice of *In re Fine*, 5 USPQ2d 1596, 1988 which stands for the proposition that dependent claims are not obvious if the independent claims from which they depend are nonobvious. *Hartness International, Inc. v. Simplimatic Engineering Co.*, 2 USPQ 2d 1826 also stands for that proposition. In this connection the rejection of claims 15 - 18 (now 25 - 28) on Lockwood, Bankshares and Filepp et al is not understood. Neither Lockwood nor Bankshares mentions profiles, and the Filepp reference is not clear. The network uses a switch/file server layer 200. Layer 200 has as its primary functions the routing of messages, serving of objects, and line concentration. The narrowed functional load of the higher network elements permits many more users to be serviced within the same bounds of computer power and I/O capability of conventional host-centered architectures. For example, the parameters specified may be the transaction codes required to retrieve the user's age, sex, and personal interest codes from records contained in user profiles stored at the switch/file server layer 200. Except for Filepp's claim 30 there is no mention of the profile. There is, it is submitted, insufficient clarity of references or justification for the combination.

In addition to the law in this area, selection of specific passages of Lockwood as a basis for the grounds of rejection suggests reliance on Applicant's disclosure. Lines 21 - 28 of col 15, for example, provide:

> Turning now to FIG. 11, the B subroutine used to receive a previous quotation from the financial institution is illustrated in the first flow diagram. Once the previous quotation is requested 148 the DMA unit 116 of the terminal is allowed to receive a batch of information containing the previous quotation. This batch of information is stored in the RAM memory 117 from where it is fetched 150 and displayed 151 on the video screen 118.

It is not understood how, apart from Applicant's disclosure this passage and the accompanying flow diagram could be taken as a suggestion for means for recording a stopping point in the customer's presentation in case contact is resumed.

This contention is further supported by the rejection of claim 11. That claim recites means for linking the *remote* computerized facility with a plurality of central computerized facilities. It has been rejected on lines 43 - 51 in col 16 of Lockwood describing Fig. 12. Yet Fig. 12 clearly shows that contact with the various companies is by the central data center and not the remote facilities. It is believed that Applicant's disclosure was again relied on.

In summary, Lockwood's system includes a central data processing computer and multiple remote satellite facilities linked to the central processing. The satellite facilities are sales and information terminals, each equipped with a CRT receiving and displaying requested customer information from the data processing center. Figure 4 illustrates the selection process for the various segments of the sales presentation. The basic selection data is entered on a keyboard and loaded into a microprocessor. This basic selection data includes the type of service requested

The *travel agent* then enters the client's requests and characteristics to initiate the travel presentations. Nowhere is the client "on his own". Instead the central processor of the financial institution sends loan rate information to be stored in the various terminals for review by an applicant in need of a loan. There is no searching in the central facility database. Once the applicant has *selected* a type of loan available he is asked to provide the pertinent personal information. It is this information which makes up the customer profile. In Applicant's system the profile is based on use, that is, on the customer's information viewing. The credit rating service computes the credit worthiness of the applicant based on the profile and approves or disapproves the loan. It can be seen that this process is so unlike the system claimed herein that Applicant's claims are not obvious under Section 103 of the Patent Act. Accordingly the claims now presented are believed allowable.

Respectfully submitted,

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